


CIVIL TRACKING ORDER (STANDING ORDER 1-88)	DOCKET NUMBER 1872CV00244	Trial Court of Massachusetts The Superior Court 
CASE NAME Edward M Zullo et al vs. Loretta M Presutti et al		Scott W. Nickerson, Clerk of Court Barnstable County
TO: File Copy		COURT NAME & ADDRESS Barnstable County Superior Court 3195 Main Street Barnstable, MA 02630

TRACKING ORDER - F - Fast Track

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

<u>STAGES OF LITIGATION</u>	<u>DEADLINE</u>		
	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		08/01/2018	
Response to the complaint filed (also see MRCP 12)		08/31/2018	
All motions under MRCP 12, 19, and 20	08/31/2018	10/01/2018	10/30/2018
All motions under MRCP 15	08/31/2018	10/01/2018	10/30/2018
All discovery requests and depositions served and non-expert despositions completed	02/27/2019		
All motions under MRCP 56	03/29/2019	04/29/2019	
Final pre-trial conference held and/or firm trial date set			08/26/2019
Case shall be resolved and judgment shall issue by			05/04/2020

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time. Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service. This case is assigned to

DATE ISSUED 05/04/2018	ASSISTANT CLERK Scott W Nickerson	PHONE (508)375-6684
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COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

SUPERIOR COURT
DOCKET NO.

Filed

JUL 23 2018

Scott W. Nickerson Clerk

18CV 244

EDWARD M. ZULLO and CHRISTINE MacGREGOR

Plaintiffs

v.

LORETTA M. PRESUTTI, Individually and as Trustee, ZULLO REALTY TRUST and
CELESTE ZULLO

Defendants

ANSWER OF DEFENDANT CELESTE ZULLO

1. Admit
2. Admit
3. Admit
4. Defendant admits that Plaintiffs are making those claims but she denies the substance of the claims and she especially denies that she is a necessary party to this action
- 5.-14. Admit
15. Defendant is without sufficient information to answer
16. Admit
- 17.-18. Defendant is without sufficient information to answer
- 19-21. No facts are alleged. The law speaks for itself
- 22.-27. Defendant is without sufficient information to answer

COUNT I

28. No reply necessary
29. The law speaks for itself
30. Defendant is without sufficient information to answer

WHEREFORE, Defendant demands judgment against each Plaintiff, jointly and/or severally, plus attorney's fees, court costs, interest at 12% from March 28, 2018 and any other relief this Court deems just.

DEFENDANT DEMANDS A SEPARATE JURY TRIAL UNDER RULE 20(b)

COUNT II

31. No reply necessary

32. The law speaks for itself

33.-36. Defendant is without sufficient information to answer. Defendant generally denies the Plaintiffs' claims of injury

WHEREFORE, Defendant demands judgment against each Plaintiff jointly and/or severally, plus attorney' fees, court costs, interest at 12% interest from March 28, 2018 and any other relief this Court deems just.

DEFENDANT DEMANDS A SEPARATE JURY TRIAL UNDER RULE 20(b)

COUNT III

37. No reply necessary

38. Defendant is without sufficient information to answer. Defendant generally denies the Plaintiffs' claims of injury

39. The law speaks for itself

WHEREFORE, Defendant demands judgment against each Plaintiff jointly and/or severally, plus attorney's fees, court costs, interest at 12% from March 28, 2018 and any other relief this Court deems just.

DEFENDANT DEMANDS A SEPARATE JURY TRIAL UNDER RULE 20(b)

AFFIRMATIVE DEFENSES AS TO ALL THREE COUNTS IN THE COMPLAINT

FIRST DEFENSE

Plaintiffs have failed to state a cause of action against this Defendant

SECOND DEFENSE

The Trust provides for succession of the Trustee

THIRD DEFENSE

Plaintiffs have failed to do their duty to mitigate their damages by hiring three lawyers for an unnecessary lawsuit when a mediator and/or arbitration with testimony by accountants from each side would resolve the claimed dispute for one tenth the cost

FOURTH DEFENSE

Plaintiffs have failed a condition precedent to suit, to do their duty to mitigate damages, by failing to informally sit down with all siblings present, to exhaust discussion of resolution, prior to filing suit, and instead filing a suit, hiring three lawyers and severely dissipating the estate with extensive attorneys' fees over 3-5 years

FIFTH DEFENSE

None of the Counts refer to any conduct by this Defendant. Plaintiffs have filed a frivolous suit where they allege nothing, they seek no equitable relief from this particular Defendant and they claim no damage caused by this particular Defendant

SIXTH DEFENSE

If the Trustee and/or this Court deems that this Defendant's defense of this suit is necessary to the preservation of the Trust, Plaintiffs will again be failing their duty to mitigate damages of the assets of the Trust by paying out attorneys' fees for four lawyers, where the constant litigation over 3-5 years will severely dissipate the assets of the Trust

SEVENTH DEFENSE

The Plaintiffs are estopped from deriving relief by their own intentional and/or negligent misconduct

EIGHTH DEFENSE

Plaintiffs selected an improper venue for suit

NINTH DEFENSE

This Defendant is not the proximate cause of any injury to either Plaintiff

TENTH DEFENSE

This Defendant is not an indispensable party under MRCP Rule 19

ELEVENTH DEFENSE

This Defendant is entitled to a separate trial under MRCP Rule 20(b) as this suit will place this Defendant to great expense, against Plaintiffs whom she asserts no claim and where the Plaintiffs assert no claim against her

TWELFTH DEFENSE

Plaintiffs rejected a sale of the property to National Development Corp., which would have produced a greater sum of monies to the siblings than what will now unfold in the next 3-5 years, with third party attorneys submitting bills for a suit that could have been avoided with any due diligence by the Plaintiffs

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Defendant, by her attorney,



Doug Stoddart, Esq.
8E Pleasant St., South Natick MA 01760
BBO# 545608
508-243-4877
July 17, 2018

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2018 I mailed, postage pre-paid, to the Court and to the three named attorneys in this case the above Answer.



Doug Stoddart

cc: Celeste Zullo

Commonwealth of Massachusetts

BARNSTABLE, SS.

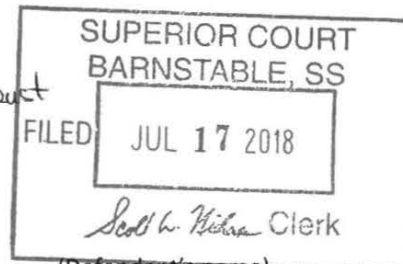
TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. 1872 CV 244

EDWARD M. ZULLO and
CHRISTINE MACGREGOR, PLAINTIFF(S),

v.
and LORETTA M. PRESUTTI, IND & TRUSTEE of ZULLO Realty Trust
CELESTE ZULLO, DEFENDANT(S)

SUMMONS

THIS SUMMONS IS DIRECTED TO CELESTE ZULLO. (Defendant's name)



You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Barnstable Superior Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court **and** mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
 - a. Filing your **signed original** response with the Clerk's Office for Civil Business, Superior Court, by mail or in person to: 3195 Main Street, Barnstable, MA 02630
 - b. Delivering or mailing a **copy** of your response to the Plaintiff's Attorney/Plaintiff at the following address: Gilberti Law, PC, 900 Route 134, S. Dennis, MA 02660
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as **counterclaims**) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must **specifically** request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under **Mass. R. Civ. P. 12**. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov.courts/case-legal-res/rules of court.

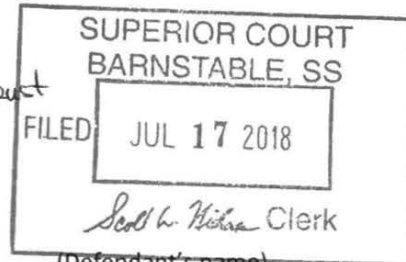
Commonwealth of Massachusetts

BARNSTABLE, SS.

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. 1872 CV 244

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v.
and LORETTA M. PRESUTTI, IND & TRUSTEE of ZULLO Realty Trust
CELESTE ZULLO, DEFENDANT(S)



SUMMONS

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1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
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 - a. Filing your **signed original** response with the Clerk's Office for Civil Business, Superior Court, by mail or in person to: 3195 Main Street, Barnstable, MA 02630
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4. **Legal Assistance.** You may wish to get legal help from a lawyer. If you cannot get legal help, some basic information for people who represent themselves is available at www.mass.gov/courts/selfhelp.
5. **Required information on all filings:** The "civil docket number" appearing at the top of this notice is the case number assigned to this case and must appear on the front of your Answer or Motion to Dismiss. You should refer to yourself as the "Defendant."

Witness Hon. Judith Fabricant, Chief Justice on May 29, 2018. (SEAL)

Scott W. Nickerson
Clerk-Magistrate

Scott W. Nickerson

Note: The number assigned to the Complaint by the Clerk-Magistrate at the beginning of the lawsuit should be indicated on the summons before it is served on the Defendant.

PROOF OF SERVICE OF PROCESS

I hereby certify that on June 29th, 2018, I served a copy of this summons, together with a copy of the complaint in this action, on the defendant named in this summons, in the following manner (See Mass. R. Civ. P. 4 (d)(1-5)):

Personal Service upon named defendant, Celeste Zullo,
individually.

Dated: June 29th, 2018

Signature: *M. Abraham*

Michelle Abraham
CPS #1401

N.B. TO PROCESS SERVER:

PLEASE ENTER THE DATE THAT YOU MADE SERVICE ON THE DEFENDANT IN THIS BOX – BOTH ON THE ORIGINAL SUMMONS AND ON THE COPY OF THE SUMMONS SERVED ON THE DEFENDANT.

June 29th, 2018 @ 7:55 am

BARNSTA

EDWARD I
CHRISTINE

Plain

v.

LORETTA
and as Trust
and CELES

Defe

- 7.1 x. Defe
7.1 x. Mer
7.2 3. Plai
4. Sup

Date: 7

COMMONWEALTH OF MASSACHUSETTS

FILED

JUL 16 2018

Scott W. Nelson Clerk

BARNSTABLE, SS.

SUPERIOR COURT

C.A. NO. 1872CV000244

EDWARD M. ZULLO and
CHRISTINE MacGREGOR

Plaintiffs

v.

LORETTA M. PRESUTTI, Individually
and as Trustee, ZULLO REALTY TRUST,
and CELESTE ZULLO

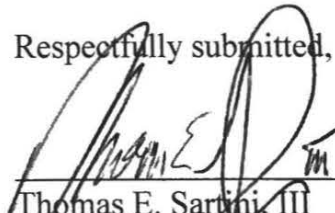
Defendant

LIST OF DOCUMENTS

(Pursuant to Superior Court Rule 9A)

7. 1. Defendants' Motion to Dismiss;
- 7.1 2. Memorandum in Support of Defendants' Motion to Dismiss;
- 7.2 3. Plaintiffs' Opposition to Defendants' Motion to Dismiss; and
4. Superior Court Rule 9A Certificate of Compliance.

Respectfully submitted,


Thomas E. Sartini, III

BBO #637971

SARTINI LAW, PC

179 Great Road, Suite 212

Acton, MA 01720

(978) 621-0340

attorneysartini@verizon.net

Date: July 12, 2018

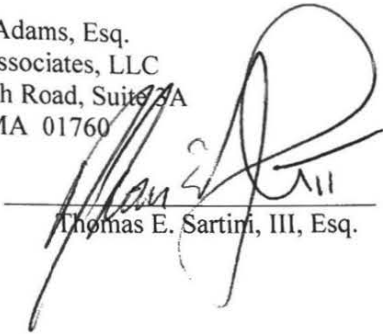
CERTIFICATE OF SERVICE

I, Thomas E. Sartini, III, hereby certify that I have, on this 12th day of July, 2018, served a copy of the foregoing document via first class mail upon the following:

Michael J. Markoff, Esq.
P.O. Box 212
Falmouth, MA 02540

Carmel A. Gilberti, Esq.
GILBERTI LAW, PC
900 Route 134
South Dennis, MA 02601

Romeo R. Adams, Esq.
Adams Law associates, LLC
5 Commonwealth Road, Suite 2A
Natick, MA 01760


Thomas E. Sartini, III, Esq.

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

SUPERIOR COURT
C.A. NO. 1872CV000244

EDWARD M. ZULLO and
CHRISTINE MacGREGOR

Plaintiffs

v.

LORETTA M. PRESUTTI, Individually
and as Trustee, ZULLO REALTY TRUST,
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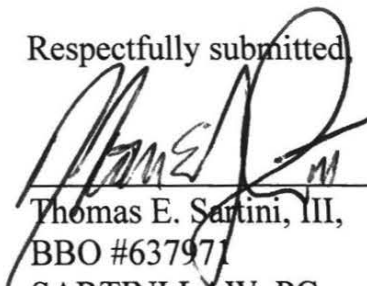
Defendant

DEFENDANTS' MOTION TO DISMISS

(Mass.R.Civ.P. 12 (b)(6))

Now come Defendants who hereby move to dismiss the above-captioned action against them pursuant to Mass. R. Civ. P. 12(b)(6). In support of this Motion, the Defendants submit the accompanying memorandum, pursuant to Superior Court Rule 9A.

Respectfully submitted,



Thomas E. Sartini, III,
BBO #637971

SARTINI LAW, PC
179 Great Road, Suite 212
Acton, MA 01720
(978) 621-0340

attorneysartini@verizon.net

Date:

June 19, 2018

CERTIFICATE OF SERVICE

I, Thomas E. Sartini, III, hereby certify that I have, on this 19th day of June, 2018, served a copy of the foregoing document via first class mail upon the following:

Michael J. Markoff, Esq.
P.O. Box 212
Falmouth, MA 02540

Carmel A. Gilberti, Esq.
GILBERTI LAW, PC
900 Route 134
South Dennis, MA 02601

Romeo R. Adams, Esq.
Adams Law associates, LLC
5 Commonwealth Road, Suite 3A
Natick, MA 01760


Thomas E. Sartini, III, Esq.